

## Message Text

SECRET

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ACTION IO-14

INFO OCT-01 EUR-12 ISO-00 AF-10 CIAE-00 DODE-00 PM-05

H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 ACDA-12 TRSE-00 EB-08 OMB-01

COME-00 HA-05 /109 W

-----021623 281309Z /40

R 280700Z DEC 77

FM AMEMBASSY BERN

TO SECSTATE WASHDC 5488

S E C R E T BERN 6056

EO 11652: GDS

TAGS: ETRD, RH, SZ

SUBJ: SWITZERLAND AND RHODESIAN SACTIONS

REF: STATE 301817, BERN 5850 AND 5899

1. SUMMARY: CHARGE AND EMBOFF MADE DEMARCHE AS IN-  
STRUCTED DEC 23 TO JUERG ISELIN, DIRECTOR SWISS  
FEDERAL POLITICAL DEPT (FPD) DIVISION II. ISELIN  
SAID FPD, AS AUTHORIZED UNDER ARTICLE 5 OF NEW  
FEDERAL ORDINANCE, WILL REPORT TO UN SYG WHENEVER  
CASES INVOLVING TRADE WITH RHODESIA ARISE WITHIN  
PURVIEW OF THE ORDINANCE, INCLUDING THOSE INVOLV-  
ING US FIRMS. HE ALSO EXPLAINED THAT FPD FOR MANY  
YEARS HAS DENIED ARMS SALES TO SOUTH AFRICA UNDER  
SWISS LAW GOVERNING ARMS EXPORTS. HOWEVER, SWISS  
LAW DOES NOT PRECLUDE LICENSING AGREEMENTS BY SWISS  
FIRMS FOR PRODUCTION IN SOUTH AFRICA. END SUMMARY.

2. ISELIN EXPLAINED THAT SWISS PENAL CODE ARTICLES  
162 AND 273, PROTECTING BUSINESS SECRETS AND  
PROHIBITING FOREIGN ECONOMIC INTELLIGENCE ACTIVITIES  
RESPECTIVELY, WOULD NORMALLY PREVENT FPD FROM PROVI-  
ING INFO ON PERSONS OR COMPANIES IN SWITZERLAND

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DOING BUSINESS WITH RHODESIA. HOWEVER, ARTICLE 5 OF  
NEW FEDERAL ORDINANCE AUTHORIZES FPD TO INFORM UN  
SECRETARY GENERAL WHENEVER PROVISIONS OF ORDINANCE  
ARE APPLIED. ISELIN EXPECTS THAT THIS INFO WOULD  
BE PSSSED ON TO UN SANCTIONS COMMITTEE TO BE INCLUDED  
IN ITS PUBLISHED REPORTS. ALTHOUGH FPD'S AUTHORI-  
TY TO INFORM UN SYG COULD BE CONTESTED IN SWISS COURTS,

FEDERAL COUNCIL SPECIFICALLY STATED THAT THIS ORDINANCE IS BASED ON SWISS CONSTITUTION ARTICLE 102 SECTIONS 8 AND 9 WHICH EMPLOWER FEDERAL COUNCIL TO CONDUCT FOREIGN RELATIONS. THEREFORE, CONSTITUTIONAL GROUNDS PROVIDE FIRM BASIS TO FPD'S ACTIONS.

3. ISELIN PROVIDED CPY OF OFFICIAL TEXT NEW ORDINANCE WHICH BEING POUCHED DEPT. TEXTS OF PENAL CODE ARTICLES 162 AND 273 FOLLOW:

A) ARTICLE 162: WHOEVER HAS LEGAL OR CONTRACTUAL OBLIGATION TO PROTECT MANUFACTURING OR BUSINESS SECRET AND BETRAYS OR BENEFITS FROM BETRAYAL OF THAT SECRET SHALL BE PUNISHED UPON CONVICTION BY IMPRISONMENT OR FINE."

B) ARTICLE 273: ANY PERSON WHO SEEKS TO OBTAIN BUSINESS OR MANUFACTURING SECRET WITH VIEW TO MAKING IT AVAILABLE TO FOREIGN AUTHORITIES, TO FOREIGN ORGANIZATIONS, PRIVATE BUSINESS ENTERPRISES OR TO THEIR AGENTS, OR WHO MAKES BUSINESS OR MANUFACTURING SECRET AVAILABLE TO FOREIGN AUTHORITIES, TO FOREIGN ORGANIZATIONS, PRIVATE BUSINESS ENTERPRISES OR TO THEIR AGENTS, SHALL BE PUNISHED BY IMPRISONMENT, IN SERIOUS CASES BY PENAL SERVITUDE. IN ADDITION TO IMPRISONMENT A FINE CAN BE IMPOSED."

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4. ISELIN SAID HIS DIVISION, WHICH HANDLES AFRICAN, ASIAN AND LATIN AMERICAN AFFAIRS, HAS RECEIVED INFORMAL INQUIRIES REGARDING NEW ORDINANCE FROM SWISS ATTORNEYS IN GENEVA WHO SAID THEY REPRESENTED SEVERAL AMERICAN FIRMS. HE BELIEVED ANY FIRMS ENGAGED IN TRIANGULAR TRADE HAVE BEEN PUT ON NOTICE AND, THEREFORE, NEW ORDINANCE WILL HAVE IMPORTANT EFFECT ON RHODESIAN TRADE. SWISS BILATERAL TRADE WITH RHODESIA REMAINS GOVERNED BY 1967 FEDERAL ORDINANCE WHICH REQUIRES THAT TRADE BE NO HIGHER THAN ANNUAL LEVEL OF AVERAGE FOR YEARS 1964 TO 1966. BILATERAL TRADE CONSISTS MOSTLY OF MEAT AND MEAT EXTRACTS, TOBACCO AND OTHER MISCELLANEOUS PRODUCTS. VOLUME OF SWISS IMPORTS FROM RHODESIA HAS FALLEN FROM AVERAGE 3,858 TONS IN MID 1960'S TO 2,396 TONS IN 1976. WHILE INFLATION CAUSED NOMINAL VALUE OF IMPORTS TO RISE FROM SF 17.6 MILLION TO SF 19 MILLION, SWISS EXPORTS TO RHODESIA HAVE DECLINED FROM AVERAGE SF 7.3 TO SF 4.9 MILLION. ISELIN SAID SWITZERLAND COULD ORDER FURTHER REDUCTION IN CEILING OF TRADE WITH RHODESIA IF NECESSARY AND DRAFT ORDINANCE IS READY FOR

THAT CONTINGENCY.

5. UN ARMS EMBARGO AGAINST SOUTH AFRICA POSES NO PROBLEM FOR SWITZERLAND, ACCORDING TO ISELIN, WHO SAID VIRTUALLY ALL ARMS EXPORTS MUST BE APPROVED BY HIS DIVISION. FEDERAL APPROVAL OF PRODUCTION, IMPORT, EXPORT, AND TRANSIT OF WAR MATERIALS IS PROVIDED UNDER SWISS CONSTITUTION ARTICLE 41 AND ARTICLE 10 OF 1973 FEDERAL LAW GOVERNING WAR MATERIALS. ARTICLE 11 OF THAT LAW PROHIBITS EXPORT PERMITS FOR ARMS SHIPMENTS TO AREAS WHERE THERE IS ARMED CONFLICT, THREAT OF CONFLICT OUTBREAK, OTHER DANGEROUS TENSIONS THAT COULD LEAD TO WAR, OR FOR SWISS HUMAN RIGHTS FOREIGN POLICY REASONS. ISELIN PROVIDED GERMAN LANGUAGE SECRET

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TEXT OF 1976 MAGAZINE ARTICLE HE WROTE ON SWISS ARMS EXPORTS WHICH WE ARE POUCHING TO DEPT.

6. ISELIN SAID SWISS WITHHOLD EXPORT LICENSE FOR ARMS TO ALL OF WHAT IS TERMED "AFRIQUE AUSTRALE", I.E., ALL OF SOUTHERN AFRICA AS FAR NORTH AS ZAMBIA AND MOZAMBIQUE. HE SAID FPD SOON WOULD ALSO BAN EXPORTS OF SWISS SPORTING RIFLES TO SWISS SHOOTING CLUBS IN SOUTH AFRICA. HOWEVER, THERE IS NO LEGAL BASIS IN SWISS LAW TO CANCEL EXISTING OR PREVENT CONCLUSION OF NEW LICENSING AGREEMENTS BY SWISS FIRMS FOR PRODUCTION OF ARMS IN SOUTH AFRICA. HE ASKED THAT EMBASSY INQUIRE WITH DEPT WHETHER THERE EXIST AT PRESENT ANY US LICENSES FOR ARMS PRODUCTION IN SOUTH AFRIC.

7. ACTION REQUESTED: PLEASE PROVIDE INFO WHETHER THERE ARE EXISTING US LICENSES FOR ARMS PRODUCTION IN SOUTH AFRICA FOR US TO RESPOND TO ISELIN'S REQUEST IN PARA 6 ABOVE.  
ODELL

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NNN

## Message Attributes

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Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
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